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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,464	01/02/2002	Hui Cheng	106809	6600
27074	7590	08/26/2005	EXAMINER	
OLIFF & BERRIDGE, PLC. P.O. BOX 19928 ALEXANDRIA, VA 22320			KASSA, YOSEF	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/032,464

Applicant(s)

CHENG ET AL.

Examiner

YOSEF KASSA

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-35 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Previously indicated allowability of claims 1 and 3-5, the office Action mailed out on July 27, 2005 is withdrawn in view of the new rejection under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 101***

2 Claims 1 and 3-5 are rejected under 35 U.S.C. 101 because the claimed invention of is directed to non-statutory subject matter. Claim 1 is drawn to non-functional descriptive material. Claim 1 recites the limitation "squares of different sizes sharing the same geometric center point, wherein the pixel to be evaluated is at the center point of the structuring element A, wherein an inner square of the structure element A has a side dimension N, and an outer square has a side dimension M, wherein N represents a largest speckle that can be removed and M represents a dimension the speckle lies from other objects ", which is that the claim is directed to non-functional descriptive material since no requisite functionality is present to satisfy the practical application requirement, and the claim only recited the shape of the structuring element, then such non-functional descriptive material alone does not impart functionality either to the data as so structured. (See MPEP 2106).

***Allowable Subject Matter***

3 Based on applicant's amendment/persuasive arguments filed on December 22, 2004, the rejection for claims 6-35 has been withdrawn. Therefore, claims 6-35 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

4 Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOSEF KASSA whose telephone number is (703) 306-5918. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BHAVESH MEHTA can be reached on (703) 308-5246. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and (571) 273-8300 for after Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

Application/Control Number: 10/032,464  
Art Unit: 2625

Page 4

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.


For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**PATENT EXAMINER**

Yosef Kassa

08/03/05.

  
BHAVESH M. MEHTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600